

**CLARK COUNTY
BOARD OF FREEHOLDERS
REGULAR MEETING AGENDA**

Saturday, March 8, 2014 -- 9:00 a.m.
Clark County Public Services Center (Hearing Room)
1300 Franklin Street, Downtown Vancouver

1. Call to Order
 - a. Confirmation of Quorum
 - b. Public Comments (15 minute maximum)*
 - c. Approval of Minutes (February 22, 2014)
 2. First Deliberation on Charter Element
 - a. Transition
 - b. Distribution of draft text
 - c. Direction to staff
 3. Second Review of Charter Element
 - a. Initiative and Referendum
 - b. Previous direction to staff
 - i. Prepare a draft with both initiative and referendum, include thresholds for numbers of signatures that are accessible but high, include Prosecuting attorney opinion step, do not allow initiatives to create unfunded mandates.
 4. Review of Charter Element
 - a. Separation of Powers
 - b. Straw Vote
 5. Discussion
 - a. Public presentation\outreach
 6. Proposed Topic for March 22 Meeting
 - a. Personnel, Finance, Election, Charter Amendments, Other Elected Officials, General Provisions
 7. Close of Business
 - a. Good of the Order
 - b. March 22, 9 am Meeting Location
 - Battle Ground Fire Station #26
 - 21609 NE 72nd Avenue
 - Battle Ground, WA 98604
 - (360)687-4535
 - c. Extended public comments if needed*
 - d. Adjourn
- e. *Note that public comments at the beginning of the meeting are limited to three minutes per person with a cumulative total of fifteen minutes. In event public comments may cumulatively exceed fifteen minutes at the beginning of the meeting, extended time is allowed at the end of the meeting.*

BOARD OF FREEHOLDERS MEETING MINUTES

FEBRUARY 22, 2014

The Board of Freeholders convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington.

Call to Order

Nan Henriksen, Chair called the meeting to order at 9:01 a.m.

Public Comment

1. Chuck Green
2. Steve Foster
3. Ann Foster
4. Heather Tischbein
5. Sunrise O'Mahoney
6. Greg Kimsey

Approval of Minutes

Moved by Liz Pike to approve minutes from February 15, 2014 seconded by Jim Mains. **Motion Passed**

First Deliberation on Charter Element

Initiative and referendum

Each board member gave their viewpoint regarding initiative and referendum. By straw vote the majority of the board agreed to include an element of initiative and referendum in the charter.

By straw vote staff was directed to bring to the next meeting draft language for initiative and referendum which should include a range of percentages based on the last gubernatorial election, and a prohibition to unfunded initiatives.

Second Review of Charter Element

Separation of powers

The Board reviewed and provided their viewpoint regarding the draft separation of powers element which included, county manager, five commissioner districts, nomination by district in primary and election at large in general election, partisan election.

Te Chair asked members to send additional language changes to Marlia Jenkins by Tuesday February 25. An amended version of this element will be emailed to members and reviewed at the next meeting.

Members took straw polls on two items. By straw poll, they confirmed earlier decisions to have partisan elections and to continue to nominate council members by district in the primary and to conduct elections in the general election on a countywide basis.

Discussion

The Board discussed items for possible inclusion in the charter. By straw poll, no items were added.

Good for the Order

Marlia Jenkins proposed to the Board to use Code Publishing to develop the final hard copy of the proposed Charter. Moved by Garry Lucas, seconded by Peter Silliman to approve final preparation of the Charter using Code Publishing at an approximate cost of \$22 per page, and request additional funds from the Clark County Board of Commissioners if needed. **Motion passed**

Next Meeting Date/Location

March 8, 2014, 9:00 a.m., Commissioners' Hearing Room, 6th Floor, Public Service Center.

| QUESTIONS FROM FREEHOLDERS | | | | | | | | | | | | | |
|--|--|--------|--------|--------|--------|-----|-----|-------|--------|--------|--------|--------|--------|
| QUESTION | RESPONSE | | | | | | | | | | | | |
| Is limitation of campaign finance within the purview of the Charter | <p>Staff called called the Public Disclosure Commission Yes. Counties can limit. Cities and counties have done this. Limits are in addition to the state limits. Localities must regulate and enforce on their own. City of Seattle cited as a reference www.seattle.gov/ethics</p> <p>The BOF indicated it did not want to make changes that required setting up new commissions or adding regulation or expense. Therefore the answer is probably “no” because of the need to set up additional commissions and regulations to achieve this</p> | | | | | | | | | | | | |
| Can a charter prohibit paid gathering of signatures for initiative and referendum? NO | <p>The question is not whether this type of prohibition can be included in a county charter, but whether it can be imposed at all. The answer is No.</p> <p>Over the past 20-30 years, many states have tried to impose limitations on how paid signature gatherers operate, and many of the limitations have been struck down as unconstitutional, violating First Amendment Free Speech. Petition circulation is considered "core political speech" and prohibiting payment limits the amount of political speech that can be conveyed, and limits the sponsors' ability to get the measure on the ballot. The seminal case out of the U.S. Supreme Court is Meyer v. Grant, 486 U.S. 414 (1988).</p> <p>Please feel free to contact me if you have any questions. Thank you and good luck!</p> <p>Katie Blinn Director of Legislative Policy and Governmental Relations Office of the Secretary of State (360) 902-4168</p> | | | | | | | | | | | | |
| How many votes were cast I the last gubernatorial election and how does this relate to possible thresholds for initiative and referendum | <p>November 2012 General Election</p> <p>Number of registered voters: 243,155</p> <p>Ballots cast: 193,503</p> <p>Percent 79.58%</p> <p>Thresholds for signature requirements</p> <p>Percent of ballots cast in last gubernatorial election</p> <table><tr><td>5%</td><td>7%</td><td>10%</td><td>15%</td><td>20%</td><td>25%</td></tr><tr><td>9,675</td><td>13,545</td><td>19,350</td><td>29,025</td><td>38,701</td><td>48,376</td></tr></table> | 5% | 7% | 10% | 15% | 20% | 25% | 9,675 | 13,545 | 19,350 | 29,025 | 38,701 | 48,376 |
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| 9,675 | 13,545 | 19,350 | 29,025 | 38,701 | 48,376 | | | | | | | | |

ARTICLE # - INITIATIVE AND REFERENDUM

Section 1. Direct Government.

The people of Clark County reserve the power to make certain proposals at their option, and to approve or reject them at the polls, independent of the Council.

Section 2. The Initiative.

The people reserve the power of initiative. An ordinance or amendment to an ordinance, except as limited by this Charter or by state or federal law, may be proposed by filing an initiative petition with the Auditor. No ordinance enacted as a result of initiative shall be amended or repealed within two years after enactment, except as a result of a subsequent initiative or referendum or as required by state or federal law.

A. Initiative Limitations.

The following may not be proposed or adopted by initiative:

1. Ordinances providing for compensation or working conditions of county employees or elected officials;
2. Redistricting council districts;
3. Authorizing or repealing an appropriation of money or any portion of the annual budget;
4. Authorizing or repealing taxes or fees;
5. Authorizing or repealing any provision of a service or program provided by the County.

6. Expenditure of additional funds for an existing activity unless provisions are specifically made within the initiative for the required new or additional sources of revenue.
7. Expenditure of any funds for a new activity or purpose unless provisions are specifically made within the initiative for the required new or additional sources of revenue.
8. Amending or repealing this Charter.

B. Initiative Procedures.

1. Any registered voter of Clark County may file an initiative proposal with the county Auditor. The Auditor shall transmit a copy of the proposal to the Prosecuting Attorney. Within 10 business days of the filing date, the Prosecuting Attorney shall formulate a true and impartial statement, posed as a positive question, not to exceed 50 words, which shall become the ballot title.
2. Within 10 business days of the filing date, the Prosecuting Attorney shall evaluate the initiative proposal and issue a written statement to the petitioner as to whether the initiative proposal is within or outside the scope of local initiative powers, or whether the Prosecuting Attorney has an opinion.
3. The Prosecuting Attorney shall register the initiative petition with the Auditor, who shall give the proposed initiative a number, which shall be the identifying number for the measure. Within an additional five business days, the Auditor shall confer with the petitioner to review and establish the form and style of the initiative petition as required by the Auditor or ordinance.

4. The petitioner shall have 120 days after conferring with the Auditor to collect signatures of registered voters of the county. Signatures collected shall number no less than 7-12 percent of the number of votes cast in the county in the last gubernatorial election. Each petition shall contain the warning clause prescribed by state law, full text of the proposed measure, ordinance or amendment to an ordinance, ballot title, and the following statement: “In the opinion of the Clark County Prosecuting Attorney, the subject of this initiative is within the scope of local initiative powers. Yes [] No [] No opinion at this time [],” with a mark in the “box that reflects the Prosecuting Attorney’s opinion.

Comment [JM1]: BOF needs to select value

5. The Auditor shall verify the number of signatures on the petition and, if a sufficient number of valid signatures have been submitted, place the proposal on the ballot for the next general election.

a. Signatures on the petition must be submitted to the Auditor.

b. Signatures shall be submitted no less than 135 days before the date of the next general election, unless the Council enacts the proposal without change or amendment not less than 60 days prior to said election.

c. If the Council does not adopt the proposed measure but adopts a substitute measure not more than 15 days after petition validation, the substitute measure shall be placed on the same ballot with the initiative proposal.

6. When a ballot contains an initiative petition and a substitute measure, or multiple initiative measures on the same topic, the voters shall be given the choice of accepting either petition, rejecting both petitions, or accepting one and rejecting the other. The County Auditor shall structure the ballot to allow voters these choices.

Section 3. The Mini-Initiative.

The people reserve the power of mini-initiative. Ordinances or amendments to an existing ordinance may be proposed to the Council by registering with the Auditor. An initiative petition shall bear signatures of qualified voters totaling no less than **three** percent of the number of votes cast in the county in the last gubernatorial election. If a sufficient number of signatures is verified, the Auditor shall transmit the initiative petition to the county legislative Council. The council shall hold a public hearing on the proposed ordinance within sixty (60) days , and enact, reject or modify the proposed ordinance within 30 calendar days of the hearing.

Section 4. The Referendum.

The people reserve the power of referendum. Referendum may be ordered on any ordinance, or any part thereof, passed by the Council, except as limited by this Charter.

A. Referendum Limitations

The following ordinances, in whole or in part, are not subject to referendum:

1. Emergency ordinances;
2. Ordinances providing for compensation or working conditions of county employees or elected officials;
3. Ordinances authorizing or repealing an appropriation of money or any portion of the annual budget;
4. Ordinances authorizing or repealing taxes or fees;
5. Ordinances required by state or federal law.

B. Referendum Procedure

Referenda shall be filed within 10 days of passage of an ordinance by council. Except as set forth in this section, referenda may be filed against an ordinance or any portion of an ordinance. Any registered voter of Clark County may file with the county Auditor a referendum petition signed by 25 to 150 registered voters of Clark County.

Comment [JM2]: BOF needs to select value

1. The Auditor shall verify the signatures on the referendum petition within ten (10) calendar days. After 100 signatures are validated, the ordinance subject to referendum is suspended until:

Comment [JM3]: BOF needs to select value

- a. Sufficient valid signatures are collected within the time prescribed by this section to place the measure on the ballot and voters have voted on the measure.
 - b. Insufficient valid signatures are collected within the time prescribed by this section to place the measure on the ballot.
 - c. Filing a referendum petition against a portion of an ordinance shall not delay the remainder of the ordinance from taking effect.
2. Within five (5) business days of filing the referendum petition, the Auditor shall confer with the petitioner to review the proposal as to form and style, as required by the Auditor or ordinance. The Auditor shall give the referendum petition an identifying number and transmit a copy of the petition to the Prosecuting Attorney. Within ten (10) business days after receipt, the Prosecuting Attorney shall write a statement not to exceed 50 words and posed as a question, which shall express a true and impartial statement of the measure.

The statement will be the ballot title. The Prosecuting Attorney shall register the referendum petition with the Auditor.

3 The petitioner shall have **90 to 120** calendar days from registration to collect signatures of registered Clark County voters. The number of signatures collected shall equal no less than **eight to fifteen** percent of the total votes cast in the county in the last gubernatorial election. Each petition shall contain the full text of the referred measure and ballot title.

Comment [JM4]: BOF needs to select value

a. The Auditor shall verify the number of signatures on the petition and, if valid, submit the measure to voters at the next general election. Petition signatures must be submitted to the Auditor for verification no less than 120 calendar days before the date of the next general election.

Comment [JM5]: BOF needs to select value

Section 5. The Recall.

The people reserve the power of recall, as provided in the constitution and laws of the State of Washington and this Charter.

ARTICLE # - POWERS OF THE COUNTY

Section 1 General Powers.

The county shall have all powers possible for a home rule county under the state constitution.

Section 2 Intergovernmental Relations.

The county may, in the exercise of its powers and performance of its functions and services, agree by contract or otherwise to participate jointly or in cooperation with any one or more other governments, governmental agencies and municipal corporations, and share the costs and responsibilities of such powers, functions and services.

Section 3 Construction.

The powers of the county granted by this charter shall be liberally construed, and the specific statement of particular powers shall not be construed as limiting the general powers. Reference to the state constitution and general law in this charter shall be construed as a continuing reference to them as they may be amended from time to time. This charter and the ordinances enacted hereunder shall supersede special and general laws which are inconsistent with the charter and ordinances to the extent permitted by the state constitution.

Section 4 Name, Boundaries, County Seat

The corporate name of this County shall remain Clark County, and the county seat shall remain as on the date of the enactment of this charter until changed. The county shall have those boundaries provided by the legislature.

Section 5 Separation of Powers and Cooperation of Branches

There shall be separation of the legislative and executive powers into two branches of government. Each branch is to dutifully fulfill its responsibilities and shall not extend its authority into the other branch, as defined in this Charter.

ARTICLE # - THE LEGISLATIVE BRANCH

Section 1 County Council Composition

The legislative power of the County not reserved to the people or the executive branch shall be vested in a County Council. The legislative branch shall be composed of the County Council ("Council"). The Council shall consist of five members. The voters of each district shall nominate councilmember candidates in a partisan primary election. Council members shall be elected at large by voters of the entire county in a general election.

Section 2 Organization

- a. The council shall annually elect the Chair of the Council from its membership.
- b. The Chair shall preside over Council meetings, determine Council agendas, and ensure the orderly and efficient conduct of Council meetings. The Chair, or a designee will be the county's spokesperson to articulate Council policies, vision, strategies, and plans; represent the county before the governor, state legislature and other state and federal agencies; meet and greet important visitors to the county; supervise constituent response processes for the Council as a whole; and, serve as the county's lead representative at dedications, ceremonial activities and other public events.
- c. The Council shall vote to appoint its members to other boards and commissions.
- d. The Council shall annually elect one of its members as Vice-Chair who shall act in the absence of the chair.
- e. A majority of the Council shall constitute a quorum at all meetings.
- f. Council members shall serve as citizen legislators, in a part time capacity.

g. The Council shall take action by and pursuant to the vote of at least a majority of its members except where a two-thirds vote is required.

h. Except as otherwise provided in this Charter, the Council shall be responsible for its organization and rules of conduct for business.

Section 3 Terms of Councilmembers

The term of office of each councilmember shall be four years and until a successor is elected and qualified.

Section 4 Powers of the Council.

The enumeration of particular legislative powers shall not be construed as limiting the legislative powers of the Council. The Council shall be the policy determining body of the county. The Council shall exercise its legislative power by the adoption and enactment of ordinances, resolutions and motions. Subject to state and federal law, it shall have the power to:

- a. Levy taxes, appropriate revenue, and adopt budgets for the county.
- b. Establish the compensation to be paid to all county officers and employees, and provide for the reimbursement of expenses.
- c. Except as otherwise provided herein, establish by ordinance administrative offices and their powers and responsibilities.
- d. Adopt by ordinance comprehensive plans and land development codes, including improvement plans for present and future development in the county.
- e. Conduct public hearings on matters of public concern to assist it in performing its legislative responsibilities.

f. Carry out other legislative duties as authorized and required by law.

g. Confirm or reject nominations to boards and commissions forwarded by the County Manager.

h. The County Council shall have concurrent authority with the county manager to nominate members to the following boards and commissions. Members are appointed by Council. Members of similar quasi-judicial boards or commissions created after the effective date of the Charter shall be appointed in the same manner.

1. Clark County Planning Commission
2. Clark County Historic Preservation Commission
3. Board of Equalization of Assessment

Section 5 Clerk of Council.

The Council shall appoint a Clerk of Council to maintain its records.

Section 6 Rules of Procedure.

a. Subject to and within limitations provided by this charter, the Council shall adopt by ordinance rules of procedure governing the time, place and conduct of its meetings and hearings and the introduction, publication, consideration and adoption of ordinances.

b. All meetings shall be open to the public except to the extent executive sessions are authorized by law. A verbatim public record of each public meeting shall be kept by the Council Clerk. The record shall be retained in the form provided by ordinance and subject to state law for a reasonable period of time. Written minutes shall be promptly recorded and will

include a summation of the actions from each council meeting and a record of votes by each councilmember.

- c. The Council shall meet regularly and no fewer than 22 times in a calendar year.

Section 7 Relationship with Other Branches.

Councilmembers shall not interfere in the administration of the executive branch. They shall not issue orders to or direct, either publicly or privately, any officer, agent, employee, contractor or vendor subject to the direction and supervision of the County Manager, executive branch or other elected official. Nothing contained herein shall prohibit a councilmember from referring a citizen complaint or submitting a request for information to the County Manager. Nothing contained herein shall prohibit a council member from requesting information pertinent to the legislative deliberations and actions of the council. Violations of this subsection of the Charter shall constitute malfeasance, and therefore may subject the violator to recall, in accordance with Article 1 Section 33 of the Constitution of the State of Washington.

- 1.

ARTICLE # - THE EXECUTIVE BRANCH

Section 1 Composition and Powers.

The executive branch shall be composed of the County Manager, Assessor, Auditor, Clerk, Prosecuting Attorney, Sheriff, Treasurer and the officers and employees of administrative departments and elected executive offices established by state law or this Charter or created by the Council. The executive branch shall have all executive powers of the County under this Charter.

Section 2 The County Manager.

#.10 Appointment of the County Manager

- a. The County Manager shall be appointed by a two-thirds vote of the Council. The County Manager shall be terminated by a two-thirds vote of the council.
- b. The County Manager shall be selected on the basis of his or her executive experience and professional administrative qualifications.
- c. No member of the Council shall, during the time for which he or she was elected, be appointed as County Manager.
- d. The County Manager shall serve at will. The Council shall establish the County Manager's contract or terms of employment, including compensation, provided the contract shall be at will and terminable in accordance with contract terms and this Charter.
- e. Employment of a County Manager shall not be construed as changing the relationship of the councilmembers or other elected officials to their constituents, or the relationship of the councilmembers to other elected officials.

f. It shall be the County Manager's responsibility to designate a qualified employee of the County as his or her Deputy County Manager. The Deputy County Manager shall perform the duties of the County Manager during the County Manager's extended absence or disability.

#.20 Powers and Duties of the County Manager

The County Manager shall be the chief executive officer of the county and have all executive powers of the county which are not expressly vested in other elected officers by state law or this Charter. The County Manager shall have the power to:

- a. Supervise all administrative departments established by this Charter or created by the Council.
- b. Execute and enforce within the county all ordinances and state statutes that are not assigned to other elected officials.
- c. Present to the Council an annual statement of the county's fiscal and governmental affairs and any other report which he or she may deem necessary.
- d. Annually prepare and present to the Council budgets and a budget message setting forth proposals for the forthcoming fiscal year.
- e. Prepare and present to the Planning Commission comprehensive plans, including capital improvement plans, and development ordinances for present and future development in the county. Present the Planning Commission's recommendations on these matters to the Council.
- f. Determine the organizational structure of and assign duties to administrative offices which are not specifically assigned by this Charter or by ordinance.

g. Sign or cause to be signed, on behalf of the county, all deeds, contracts, collective bargaining agreements, and instruments not otherwise reserved to others by this Charter or state law.

h. Conduct collective bargaining on behalf of the county, subject to state and federal law and budget direction provided by the Council,

The specific statement of particular executive powers shall not be construed as limiting the executive powers of the County Manager.

Section 3 Appointments by the County Manager

a. The County Manager shall appoint the chief officer of each administrative department.

1. Appointments by the County Manager shall be presented to the Council during a regular Council meeting. Appointments shall take effect within 15 business days of the presentation unless rejected by a two-thirds majority vote of the Council where all five Councilmembers are present. The rejection shall apply only to that department.

2. The County Manager shall appoint chief officers on the basis of their abilities, qualifications, integrity and prior experience concerning the duties of the office to which they are appointed.

3. No time limitation shall be imposed on the term of employment for appointed chief officers of administrative departments.

b. The County Manager shall appoint members of boards commissions, and task forces to the Council except as provided by state law, intergovernmental agreement or this Charter.

1. Appointments by the County Manager shall be presented to the Council during a regular Council meeting. Within 30 calendar days, the Council shall accept or reject the appointment by a majority vote. Failure to act within 30 days constitutes acceptance of the appointment. A rejection applies to that board, commission or task force position only.

2. The term of office for a board, commission or task force member appointed by the County Manager shall be limited to 12 consecutive years.

Section 4 Administrative Departments.

a. The administrative departments shall consist of those non-elected departments and agencies of the executive branch.

b. The chief officer of each administrative department shall appoint all officers and employees of his or her office or department, and shall comply with the county's personnel policies and procedures when appointing officers and employees to positions covered by the personnel policies and procedures.

Section 5 Elected Executive Offices.

The elected executive offices shall consist of the offices of the Assessor, Auditor, County Clerk, Prosecuting Attorney, Sheriff and Treasurer.

Section 6 Other Elected Officials.

Other elected officials include the Assessor, Auditor, Clerk, Prosecuting Attorney, Sheriff and Treasurer.

Section 7 Appointments by Other Elected Officials.

Other elected officials shall hire all officers and employees of their respective elected executive offices, and shall comply with the county's personnel policies and procedures when appointing officers and employees to positions covered by the county's personnel policies and procedures. The chief officers appointed by other elected officials shall be appointed on the basis of their abilities, qualifications, integrity and prior experience concerning the duties of the office to which they are appointed.

Section 8 County Medical Examiner.

The Clark County Medical Examiner shall be appointed by the County Manager from applicants who shall be either certified as a forensic pathologist (physician) by the American Board of Pathology or be a pathologist eligible to take the examination for certification within one year of appointment and pass the exam within three years. The Medical Examiner shall perform duties as prescribed by general law or by ordinances or resolutions adopted by the Council, and shall receive compensation as determined by the Council.